IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 784 OF 2006.

Shivaji Sidram Bhoir,
Age about 25 years,
Occupation: Agriculture,
residing at Atali Gaon,
Taluka Kalyan, Dist.Thane,
at present at Igatpuri,
Taluka Igatpur, Dist.Nashik. ... Petitioner.

Versus.

1. The State of Maharashtra,
through the Principal Secretary,
Appeal and Security, Home Deptt.,
Mantrayala, Mumbai.

2. Assistant Commissioner of Police,
Kalyan Division, Kalyan,
Dist. Thane.

3. Deputy Commissioner of Police,
Kalyan Division-III, Kalyan,
Dist. Thane. ... Respondents.

Shri Dilip Bodake for the Petitioner.

Shri Rajesh More, A.P.P. for the Respondents.

CORAM : ABHAY S.OKA, J.

DATED : 11th September, 2006.

ORAL JUDGMENT.:

1. By this petition, the Petitioner has challenged the order dated 8th December 2005 passed by the 3rd Respondent under section 60 of the Bombay Police Act, 1951. By the said order, the Petitioner has been ordered to be externed from Thane, Mumbai, Mumbai Suburban, and Raigad Districts for a period of two years. The Petitioner has also challenged the order

dated 17th March 2006 passed by the 1st Respondent in the statutory appeal by which the order dated 8th December 2005 has been confirmed.

2. The learned Advocate for the Petitioner submitted that even according to the case of the 3rd Respondent all the alleged prejudicial activities of the Petitioner are confined to the Taluka Bhiwandi and Taluka Kalyan of District Thane. He submitted that no reasons are mentioned in the order for extending the order of externment to Mumbai and Raigad Districts. He submitted that the order of externment is excessive and deserves to be quashed and set aside. He placed reliance on a decision of this Court in the case of Ganpat alias Ganesh Tanaji Katare v/s. Assistant Commissioner Police and others (2005 All M.R.(Cri.) page 2717). The learned A.P.P. supported the impugned orders by pointing out the nature of prejudicial activities of the Petitioner.

3. I have considered the submissions. A perusal of the show-cause notice issued to the Petitioner shows that there are three offences registered against the Petitioner at Mahatma Phule Chowk, Padgha (Thane Rural) Police Station under section 379 read with section 34 of the Indian Penal Code. The Respondent No.3 has placed reliance on in-camera statement of witness A. The allegations made by the said witness relate to the

villages around Kalyan and the City of Kalyan. The allegations made in the in-camera statement of another witness relate to the same area. In the order of externment it is stated that considering the proximity between Thane, Mumbai, Mumbai Suburban, and Raigad Districts and fast modes of transport available, the order of externment is being passed extending to four districts.

4. The learned A.P.P. placed reliance on the decision of the Apex Court in the case of Pandharinath Shridhar Rangnekar v/s. Deputy Commissioner of Police, reported in (1973) 1 S.C.C. page 372 and submitted that the Apex Court has upheld an order of externment from the Districts of Mumbai and Thane on the ground of availability of fast modes of transport. A perusal of the said decision shows that the Apex Court confirmed the view taken by this Court on the ground that the view taken by this Court pertains to the matters of local colour and conditions. The Apex Court accepted the view of this Court that the Greater Bombay and Thane Districts are intimately connected with each other not only considering the availability of several modes of transport but other factors such as contiguous industrial area, availability of suburban trains etc. It was also accepted that the said two districts form a single unit. That is the reason why the Apex Court confirmed the externment of the Petitioner before it

from Mumbai and Thane Districts though his prejudicial activities were confined to Greater Mumbai.

5. In the present case it cannot be said that the Districts of Thane, Mumbai, Mumbai Suburban and Raigad are intimately connected to each other and form one unit. In a given case the order of externment could have been passed extending to an area which is larger than the area to which the prejudicial activities of the externee are confined. However, the area to which the order of externment is to operate must be chosen with a view to meet the situation created by prejudicial acts of the person sought to be externed. In the present case, no reasons are assigned save and except the availability of various modes of fast transport and the geographical proximity. In my view the decision of this Court in the case of Ganpat alias Ganesh Tanaji Katare (supra) will squarely apply to this case. Hence the petition must succeed and I pass the following order:

O R D E R

i) Rule is made absolute in terms of prayer clause (b).

ii) The impugned order of externment is quashed and set aside.

iii) This order is will not prevent the Respondents from taking appropriate action against the Petitioner in accordance with the law.

iv) The parties to act on an authenticated copy of this order.

Judge.